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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,061	10/30/2001	Robert Lashinski	P109 CON 2	9889

7590 02/15/2005
MEDRONIC VASCULAR, INC.
3576 UNOCAL PLACE
SANTA ROSA, CA 95403

EXAMINER

WEBB, SARAH K

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 02/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/020,061

Applicant(s)

LASHINSKI ET AL.

Examiner

Sarah K Webb

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11, 12 and 14 is/are pending in the application.
- 4a) Of the above claim(s) 12 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Terminal Disclaimer

1. The terminal disclaimer filed on 12/13/04 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent No. 6,309,411 has been reviewed and is NOT accepted. The person who has signed the disclaimer has not stated the extent of his/her interest, or the business entity's interest, in the application/patent. See 37 CFR 1.321(b)(3).

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claim 11 is rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 5,423,885 to Williams.

Williams discloses a stent (10) with a structural surface modification (15,20) to the vascular surface (5). The modification is in the form of axially oriented grooves/teeth (15,20) that engage the inner surface of a blood vessel to retain the placement of the stent (column 2, lines 12-21). Williams explains that apertures (20) correspond to the recesses of the body (10) left behind when teeth (15) were cut away (column 2, lines 29-31). The axially oriented recesses (20) are considered to meet the limitation "a plurality of cross axial grooves." A second material is not added to the device in the formation of the teeth, as Williams explains that the stent is unitary in construction (abstract, line 6). The stent first has a smooth outer surface that is modified by various techniques to form the teeth (column 2, lines 51-61). Williams also discloses a method of introducing the stent into a blood vessel so that the "features" engage the blood vessel wall (column 3, lines 38-55).

Response to Arguments

3. Applicant's arguments filed 12/13/04 have been fully considered but they are not persuasive. Applicant states that claim 13 was not rejected by Williams in the prior office action. The omission of the number "13" in the Detailed Action under the 102 section was in fact a typographical error. Examiner stated in line 2 of the body of the 102 rejection, *"the modification is in the form of axially oriented grooves/teeth"*, and claim 13 was included in the list of rejected claims in the Office Action Summary sheet. This was simply overlooked by applicant. No further amendments to the claims were made, and applicant failed to specify in the arguments how the claimed invention overcomes the Williams reference. Therefore, the prior rejection has been maintained. Examiner has clarified in this office action that Williams meets the limitation *"plurality of cross-axial grooves"*, as the axially oriented recesses (20) are considered to be *"a plurality of cross axial grooves."*

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah K Webb whose telephone number is (571) 272-4706. The examiner can normally be reached on Mon-Fri 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SKW
02/10/05

SKW

Julian W. Woo

JULIAN W. WOO
PRIMARY EXAMINER